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**OFFICE OF PETITIONS**

In re Application of :  
Franz Saller : DECISION GRANTING  
Application No. 09/966,853 : PETITION  
Filed: 28 September, 2001 :  
Attorney Docket No. 112740-311 :  
:

This is a decision on the renewed petition filed on 18 June, 2002, requesting that the above-identified application be accorded a filing date of 28 September, 2001, with Page 1 of the specification as a part of the original disclosure of the application.

The application was filed on 28 September, 2001. However, on 24 October, 2001, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a 28 September, 2001, filing date, but that Page 1 of the specification appeared to have been omitted. The petition filed on 4 January, 2002, was dismissed on 4 April, 2002.

In the present renewed petition, petitioner has submitted a copy of an itemized postcard receipt, bearing an Office date stamp of 09/28/01 with the above-identified application number and itemizing the filing of, *inter alia*, "specification on 16 sheets". In his declaration submitted with the petition filed on 4 January, 2002, petitioner's registered patent attorney, William E. Vaughn states that the postcard receipt inadvertently itemizes the filing of 16 pages of specification, while the specification as filed actually consisted of only 15 pages.

A review of the official record reveals that 14 pages of specification, numbered Pages 2 through 15, received on 28 September, 2001, are located therein. Since the individual at the USPTO who compared petitioner's postcard to the items

received found that the specification as filed contained at least 16 pages, however, the evidence is persuasive that Page 1 of the specification was among the application papers received on 28 September, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office. The application, including Page 1 of the specification, is therefore entitled to a filing date of 28 September, 2001.

The application will be processed and examined using the copy of Page 1 of the specification supplied with the petition filed on 4 January, 2002. The copies of the other application papers supplied with the petition will not be processed or entered, but will be retained in the application file.

The petition is **granted**. The petition fee paid with the petition filed on 4 January, 2002, will be credited to counsel's deposit account, No. 02-1818.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 28 September, 2001, using the application papers filed on 28 September, 2001, and the copy of Page 1 of the specification supplied on 4 January, 2002.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.



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